

## CALIFORNIA COASTAL COMMISSION

SOUTH CENTRAL COAST AREA  
88 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641 - 0142

GRAY DAVIS, Governor



NOTICE OF INTENT TO ISSUE AMENDMENT  
TO COASTAL DEVELOPMENT

May 19, 2000

On April 12, 2000, the California Coastal Commission granted to Eli Broad, an amendment to Permit No. 4-99-185, subject to the conditions attached, for changes to the development or conditions imposed on the existing permit. The development originally approved by the permit consisted of: Demolish two existing single family residences and construct a new 4,690 sq. ft. single family residence with attached garage, a detached 510 sq. ft. garage with an upstairs 440 sq. ft. guest unit, septic system, replace an existing 24 inch diameter storm drain pipe, and 120 cu. yds. of excavation. In addition, the project also includes an offer to dedicate a lateral public access easement over the southern beachfront portion of the site as measured from the deck stringline to the mean high tide line and the construction of a 6 ft. wide public sidewalk between Pacific Coast Highway and the proposed development.

at: 21958 Pacific Coast Hwy., Malibu (Los Angeles County).

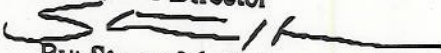
Changes approved by this amendment consist of: Modify Special Conditions 1, 2, and 8 to allow for offsite mitigation of the required public view corridor on the subject site by provision of public views and public access to the ocean from Pacific Coast Highway over the entire parcel at 21704 Pacific Coast Highway (APN: 4451-003-033). In addition, the amendment also includes modifications to the previously approved project plans to allow for new development within the previously identified public view corridor on the project site more specifically described in the application filed in the Commission offices.

Unless changed by the amendment, all conditions attached to the existing permit remain in effect.

The amendment is being held in the Commission office until fulfillment of Special Conditions 1-11, imposed by the Commission. Once these conditions have been fulfilled, the amendment will be issued. For your information, all the imposed conditions are attached.

Issued on behalf of the California Commission by,

PETER M. DOUGLAS  
Executive Director

  
By: Steven M. Hudson  
Coastal Program Analyst

Please sign and return a copy of this form to the Commission office.

ACKNOWLEDGMENT

I have read and understood the above Notice of Intent and agree to be bound by its conditions and the remaining conditions of Permit No: \_\_\_\_\_

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

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### STANDARD CONDITIONS:

1. Notice of Receipt and Acknowledgment. The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. Expiration. If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. Compliance. All development must occur in strict compliance with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviation from the approved plans must be reviewed and approved by the staff and may require Commission approval.
4. Interpretation. Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
5. Inspections. The Commission staff shall be allowed to inspect the site and the project during its development, subject to 24-hour advance notice.
6. Assignment. The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
7. Terms and Conditions Run with the Land. These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

### SPECIAL CONDITIONS:

1. Revised Plans

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, AS AMENDED, the applicant shall submit, for the review and approval of the Executive Director, revised project plans for any new development proposed within the previously identified public view corridor. No new grading, retaining walls, or seawalls shall be allowed (other than the construction of return walls necessary to protect adjacent properties).



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### 2. Landscaping Plan

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMITS, AS AMENDED, the applicants shall submit, for the review and approval of the Executive Director, revised landscaping plans consistent with the following modifications:

- (a) The portion of the project site that is not sandy beach (or subject to wave action) located within the portion of the site between the proposed residence and Pacific Coast Highway shall be planted within (60) days of receipt of the certificate of occupancy for the residence. Any portion of the site that is subject to wave action shall be maintained as sandy beach area. To minimize the need for irrigation, all landscaping shall consist primarily of native/drought resistant plants as listed by the California Native Plant Society, Santa Monica Mountains Chapter, in their document entitled Recommended List of Plants for Landscaping in the Santa Monica Mountains, dated October 4, 1994. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils. Invasive, non-indigenous plant species which tend to supplant native species shall not be used.
- (b) Plantings will be maintained in good growing condition throughout the life of the project and, whenever necessary, shall be replaced with new plant materials to ensure continued compliance with applicable landscape requirements.

### 3. Construction Responsibilities and Debris/Excavated Material Removal

The applicant shall, by accepting this permit, agree: a) that no stockpiling of dirt shall occur on the beach; b) that all grading shall be properly covered and sand bags and/or ditches shall be used to prevent runoff and siltation; and, c) that measures to control erosion must be implemented at the end of each day's work. In addition, no machinery will be allowed in the intertidal zone at any time. The permittee shall remove from the beach and seawall area any and all debris that result from the construction period.

Prior to the issuance of the coastal development permit, the applicant shall provide evidence to the Executive Director of the location of the disposal site for all debris/excavated material from the site. Should the dump site be located in the Coastal Zone, a coastal development permit shall be required.



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### 4. Geology

All recommendations contained in the Geotechnical Engineering Report by RJR Engineering Group dated 3/18/99; Geotechnical Engineering Report Addendum by RJR Engineering Group dated 6/1/99; Wave Uprush Study by Pacific Engineering Group dated 3/30/99; and Alternative Wastewater Treatment Report by Bill Wilson, Environmental Planning and Design dated 4/15/99, shall be incorporated into all final design and construction including recommendations concerning foundation, drainage, and septic system plans must be reviewed and approved by the consultants prior to commencement of development. Prior to issuance of the coastal development permit, the applicant shall submit evidence to the Executive Director of the consultants' review and approval of all final design and construction plans.

The final plans approved by the consultant shall be in substantial conformance with the plans approved by the Commission relative to construction, grading and drainage. Any substantial changes in the proposed development approved by the Commission which may be required by the consultant shall require an amendment to the permit or a new coastal permit.

### 5. Required Approvals

Prior to issuance of a coastal development permit, the applicant shall submit, for the review and approval of the Executive Director, evidence of all necessary approvals from the California Department of Transportation for the proposed drainage improvements and construction of a sidewalk, or evidence that such approvals are not required.

### 6. Construction of Sidewalk

In order to implement the applicant's proposal to construct a 6 ft. wide public sidewalk between the proposed development and Pacific Coast Highway, the applicant agrees to construct the six (6) ft. wide sidewalk between Pacific Coast Highway and the proposed development shown on the proposed project plans no later than 60 days after the issuance of the certificate of occupancy. No encroachments, such as planters, vegetation, or other structures or obstacles, that would affect the public's ability to use the entire sidewalk area shall be constructed or placed.

### 7. Sign Restriction

No signs shall be posted on the property subject to this permit which (a) explicitly or implicitly indicate that the portion of the beach on the subject site (Assessor's Parcel Numbers 4451-005-025 & 026) located seaward of the residence and deck permitted in this application 4-99-185 is private or (b) contain similar messages that attempt to prohibit public use of this portion of the beach. In no instance shall signs be posted which read "Private Beach" or "Private Property." In order to effectuate the above prohibitions, the permittee/landowner is required to submit to the Executive Director for review and approval prior to posting the content of any proposed signs.



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### 8. Public View Corridor Mitigation & Public Access Program

The deed restriction previously required by Special Condition Eight (8) of Coastal Development Permit 4-99-185 for the provision of a public view corridor on the subject site shall be deemed null and void and may be extinguished. Special Condition Eight (8) of Coastal Development Permit 4-99-185 is replaced in its entirety as follows:

PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and approval, evidence that:

- A. Applicants have dedicated to the State of California, or its appropriate public agency, the parcel located at 21704 Pacific Coast Highway, Malibu, Los Angeles County (APN 4451-003-033) ("the parcel") to be held in perpetuity for public view and public access purposes. The dedication of the parcel shall be in fee simple and free and clear of all liens and encumbrances. Dedication of the parcel shall be in lieu of providing public view corridors across their properties. The parcel shall be opened and used for public access, both visual and physical. A deed conveying title to the parcel and a deed restriction restricting the parcel to use for public view and public access purposes in perpetuity shall be held in escrow by a mutually agreeable escrow agent. If the sixty days statute of limitations (Public Resource Code Section 30801) to challenge the Commission's decision on this permit amendment expires and no litigation is filed, the escrow agent shall release the deed to the parcel and deed restriction to the State of California or its appropriate agency. In the event of litigation challenging the Commission's decision on this amendment, the applicants agree to cooperate in the defense of such litigation. If, at the final conclusion of such litigation, the Commission prevails, the escrow agent shall release the deed to the parcel and the deed restriction to the State of California or its appropriate agency. In the event that litigation precludes the parcel from being opened to public access, either visually or physically or both, the deed to the parcel and the deed restriction will be returned to the applicants by the escrow agent and the applicants shall pay to the California Coastal Conservancy the greater of \$1,000,000 or, in the event the applicants sell the parcel within one year of the return of the deed, the net sales proceeds; this money shall be used to open public accessways in Malibu or to obtain public access in Malibu. Nothing in this condition is intended to or will affect any sovereign rights or public trust rights that may exist in the parcel located at 21704 Pacific Coast Highway, Malibu, Los Angeles County (APN 4451-003-033).

In the event applicants are precluded from dedicating the parcel located at 21704 Pacific Coast Highway, Malibu, then applicants shall pay to the California Coastal Conservancy \$1,000,000 to be used to open public accessways in Malibu or obtain public access in Malibu.



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The deed restriction required above shall reflect that:

- (1) The entire parcel, as measured from the Pacific Coast Highway right-of-way line seaward to the ambulatory mean high tide line, shall be available for public recreation and both vertical and lateral public access to the beach and ocean on and across the entire site. Any future development or improvements on the parcel will require a new coastal development permit and shall be limited to those improvements necessary to provide adequate public recreation and access. New development such as gates, stairs, fences, signs, and locks may be approved, subject to the issuance of a coastal development permit, if the Commission finds that such improvements are appropriate to regulate public access on the site.
- (2) The entire parcel shall be maintained as a public view corridor from Pacific Coast Highway to the Pacific Ocean. No structures, vegetation, or obstacles which result in an obstruction of public views of the ocean from Pacific Coast Highway shall be permitted on site. Vegetation on site shall be limited to low-lying vegetation of no more than 2 ft. in height. Fencing within the public view corridor shall be limited to visually permeable designs and materials (e.g. wrought iron or non-tinted glass materials). Fencing shall be limited to no more than 6 ft. in height. All bars, beams, or other non-visually permeable materials used in the construction of the proposed fence shall be no more than 1 inch in thickness/width and shall be placed no less than 12 inches in distance apart. Alternative designs may be allowed only if the Executive Director determines that such designs are consistent with the intent of this condition and serve to minimize adverse effects to public views.
- (3) No signs shall be posted on the parcel which (1) explicitly or implicitly indicate that any portion of the subject site (APN: 4451-003-033) is private or (2) contain similar messages that attempt to prohibit public use of this portion of the beach. In no instance shall signs be posted which read "*Private Beach*" or "*Private Property*." In order to effectuate the above prohibitions, prior to the issuance of the coastal permit as amended, the permittee/landowner is required to submit to the Executive Director for review and approval prior to posting, the content of any proposed signs as consistent with Part B of this condition. After the permit has been issued, new signs limiting the time that the subject site is available for public use (such as limiting public access on the site to daylight hours) may be approved, subject to the issuance of a coastal development permit, if the Commission finds that such are appropriate to regulate public access on the site.
- (4) The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.



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- B. All existing fencing on the subject site has been removed. The applicant shall submit, for the review and approval of the Executive Director, revised project plans for the construction/installation of a new fence and gate consistent with the requirements of Part A, Subparts (1), (2), and (3) of this condition. The plans must also include a time-lock mechanism or other means to allow public access to the site during daylight hours and must be designed in consultation with the California Coastal Conservancy. The revised plans shall also include the provision of signage indicating the availability of public access on the site. The approved signage must be maintained at the site. After the revised project plans have been approved by the Executive Director, the fence, gate, and signage must be constructed/installed in accordance with the approved plans within 90 days of issuance of the Amended Coastal Development Permit.
- C. The Coastal Conservancy, or other appropriate agency, has agreed to allow construction of the new fence, gate and signage on the parcel in accordance with the plans approved by the Executive Director pursuant to Section B. above.

### 9. Offer to Dedicate Lateral Public Access

In order to implement the applicant's proposal of an offer to dedicate an easement for lateral public access and passive recreational use along the shoreline as part of this project, the applicant agrees to complete the following prior to issuance of the permit: the landowner shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. Such easement shall be located along the entire width of the property from the ambulatory mean high tide line landward to the deck stringline as illustrated on the site plan prepared by Richard Meir and Partners dated April 2, 1999. Development allowed within the lateral public access easement shall be limited to those drainage improvements necessary to maintain the approved stormdrain pipe located within the drainage easement held the California Department of Transportation.

The document shall be recorded free of prior liens which the Executive Director determines may affect the interest being conveyed, and free of any other encumbrances which may affect said interest. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording. The recording document shall include legal descriptions of both the applicant's entire parcel(s) and the easement area. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.



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### **10. Future Development Deed Restriction**

- A. This permit is only for the development described in coastal development permit No. 4-99-185. Pursuant to Title 14 California Code of Regulations section 13253(b)(6), the exemptions otherwise provided in Public Resources Code section 30610 (b) shall not apply to the detached garage/second residential unit (guesthouse) structure. Accordingly, any future improvements to the permitted garage/second residential unit (guesthouse) structure shall require an amendment to Permit 4-99-185 from the Commission or shall require an additional coastal development permit from the Commission or from the applicable certified local government.
- B. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which reflects the above restrictions on development in the deed restriction and shall include legal descriptions of the applicant's entire parcel. The deed restriction shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Commission amendment to this coastal development permit.

### **11. Assumption of Risk/Shoreline Protection**

Prior to the issuance of the coastal development permit, the applicant as landowner shall execute and record a deed restriction, in a form and content acceptable to the Executive Director, which shall provide that:

- (a) The applicant acknowledges and agrees that the site may be subject to hazards from liquefaction, storm waves, surges, erosion, landslide, flooding, and wildfire.
- (b) The applicant acknowledges and agrees to assume the risks to the applicant and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development.
- (c) The applicant unconditionally waives any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards.
- (d) The applicant agrees to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.
- (e) The applicant agrees that any adverse effects to property caused by the permitted project shall be fully the responsibility of the landowner.



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- (f) No shoreline protective device shall be constructed, now or in the future, for the purpose of protecting the residential development approved pursuant to coastal development permit 4-99-185 including, but not limited to, the residence, foundations, decks, driveways, or the septic system in the event that these structures are threatened with imminent damage or destruction from waves, erosion, storm conditions, or other natural hazards in the future and by acceptance of this permit, the applicant hereby waives, on behalf of itself and all successors and assigns, any rights to construct such devices that may exist under Public Resources Code Section 30235.

The document shall run with the land, binding all successors and assigns, and shall be recorded free of prior liens that the Executive Director determines may affect the enforceability of the restriction. This deed restriction shall not be removed or changed without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is required.